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January 10, 2024

Via ECF

The Honorable Cathy Seibel  
United States District Court Judge  
Charles L. Brieant United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601

Mr. Downey's surrender date is extended to 3/18/24.  
Mr. Kochever shall contact the Bureau of Prisons and find out why they have not yet designated a facility.

SO ORDERED.

Re: **USA v. Downey**  
**23-cr-00087 (CS)**

  
CATHY SEIBEL, U.S.D.J.

1/11/24

Dear Judge Seibel:

As the Court is aware, the undersigned and The Quinn Law Firm PLLC represent the Defendant Brian Downey ("Mr. Downey") in the above-referenced matter.

We write to respectfully request that the surrender date for Mr. Downey be extended for approximately two months. The reasons for this request are as follows:

First, as the Court is aware, Mr. Downey is presently suffering a plethora of serious physical injuries. As a result, the Court required at sentencing on November 3, 2023 (Docket Entry 55) that Mr. Downey surrender before 2:00 PM on January 17, 2024, and further recommended that the Bureau of Prisons place Mr. Downey in a federal medical center. As of this morning, Mr. Downey has not been placed, and we are uncertain where he should surrender.

In the period between the sentence date on November 3, 2023 and today, Mr. Downey's health has unfortunately continued to deteriorate. On January 5, 2024, Mr. Downey received a distressing telephone call from his radiologist, who informed him that his review of Mr. Downey's MRI revealed that a bariatric lap-band and port which had been installed during a prior bariatric surgery in 2010 has slipped and shifted and must be removed. This is a serious issue for Mr. Downey: during the initial bariatric surgery, Mr. Downey coded and nearly died. He is in the process of scheduling the surgery, and is scheduled for January 22, 2024 – he could not get a sooner date. Importantly, failure to get the surgery quickly could result in serious risk of life to Mr. Downey.

In addition, Mr. Downey was notified by his orthopedist on January 2, 2024 and was advised that his right foot impingements have also deteriorated and that surgery was now the recommended treatment. Mr. Downey is in the process of attempting to schedule surgery to shave the bone spurs and arthritis which makes it nearly impossible for him to ambulate at all.

Again, this is information that was just shared with him within the last week.

Moreover, Mr. Downey was advised by his spinal surgeon that his thoracic spinal cord compression at T9-T10 is now 75 % compressed, which is why he is unable to walk, sit, ambulate, or lay down. The recommendation is now to perform a vertebroplasty, a procedure in which bone cement is injected into fractured vertebrae to stabilize the spine and relieve pain. If that procedure is unsuccessful, the likelihood for a thoracic discectomy, which carries an increased risk for complications such as pulmonary issues and irreversible spinal cord injury, is very high.

We had hoped to know the location that Mr. Downey is required to surrender so that we could apprise them of the significant medical issues he is presently enduring. Nearly all of Mr. Downey's doctors have requested to speak with the medical staff at the federal medical center to apprise them of the acute medical issues Mr. Downey is now facing, and the recommended treatment and surgeries which must take place in the very near future to ensure his health and well-being. Because we have not received information from the Bureau of Prisons, we cannot make these necessary arrangements to ensure his health.

This is Defendant's first request for an extension of the surrender date. AUSA Steven Kochevar has been informed of Mr. Downey's medical condition and this application and he has no objection to the instant request.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

*Andrew Quinn*

Andrew C. Quinn, Esq.

cc: AUSA Steven Kochevar